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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,236	11/06/2001	Michael J. Muller	LOT9-2001-0012	5384
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KUDIRKA & JOBSE, LLP ONE STATE STREET SUITE 800 BOSTON, MA 02109			EXAMINER. ROSWELL, MICHAEL	
			ART UNIT 2173	PAPER NUMBER

DATE MAILED: 12/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/992,236

Applicant(s)

MULLER, MICHAEL J.

Examiner

Michael Roswell

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2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sass et al (US Patent 6,769,028), hereinafter Sass.

Referring to claims 1, 12, 16-17, 24, and 26, Sass teaches a computer program product, apparatus, program code, and a method for collecting user evaluation feedback in a computer system having a display and capable of generating a user interface through which a user may interact with the system (i.e. Figs. 3-4).

Sass teaches:

(A) displaying on the graphic user interface an evaluation component (i.e. media player) comprising at least one displayed command option (i.e. col. 8, lines 22-33) and a plurality of evaluation feedback options (i.e. smiley icon and frowny icon; col. 9, lines 15 and 22);

(B) receiving user selection criteria for one of the evaluation feedback option(s) (col. 9, lines 10-30); and

(C) initiating execution of the displayed command option upon receipt of the user selection criteria identifying one of the plurality of evaluation feedback options (i.e. col. 9, lines 25-30).

As another example, see col. 16, lines 24-33, which describes how the selection of radio stations is used as feedback to determine what stations appeal to a user.

While Sass fails to explicitly teach displaying on the graphic user interface a command option associated with the feedback options, it is notoriously well-known in the art to display a message or icon associated with the function of a user-selectable button. Such messages or icons are commonly found in handheld devices such as PDAs and cellphones, where a limited number of buttons may be used for a wide variety of functions. The examiner takes OFFICIAL NOTICE of these teachings. Furthermore, Sass teaches associating functions with the evaluation icons, such as switching streams in response to a negative evaluation, or referring the user to a product web site for a positive evaluation, at col. 9, lines 19-29. Therefore, it would have been obvious to one of ordinary skill in the art to combine the well-known function messages to display the evaluation functions of Sass. One would be motivated to make such a combination for the advantage of allowing a user to know exactly what will occur upon pressing a button or actuating an icon.

Referring to claims 2, 13, 18, 25, and 27, Sass discloses:

(D) modifying the display of the evaluation component on the graphic user interface, taught as the changing of the station in relation to a negative evaluation, or referring the user to a product web site for a positive evaluation, which changes the interface for evaluation. See col. 9, lines 19-29.

Referring to claims 3, 14, and 19, Sass discloses that step (C) further comprises:

(C1) initiating modification of counter value associated with the selected evaluation feedback option. See col. 9, lines 30-39, which describes collecting (counting) the feedback data for several users.

Referring to claims 4, 15, and 20, Sass discloses that step (C) further comprises:

(C1) initiating modification of a record value (i.e. within the personal profile) associated with the selected evaluation feedback option. See col. 9, lines 16-21.

Referring to claims 5 and 21, Sass discloses that step (C) further comprises:

(C2) transmitting the modified record value associated with the selected evaluation feedback option to a database (i.e. the database that stores the personal profiles). See col. 9, lines 16-21 and col. 11, line 65 – col. 12, line 10.

Referring to claims 6 and 22, Sass discloses:

(D) initiating execution of a command associated with one of the plurality of the displayed evaluation feedback options (i.e. opening a web page or updating a profile; col. 9, lines 14-30).

Referring to claims 7 and 23, Sass discloses that step (A) further comprises:

(A1) rendering the evaluation component with a separate user selectable sub region for the displayed command option and a separate user selectable sub region for the plurality of evaluation feedback options. For example, each of the icons described in col. 8, lines 22-33 are command options with a separate selectable sub region than icons 390 (smiley and frowny icons).

Referring to claim 8, Sass discloses that the plurality of evaluation feedback options are rendered as icons. See Fig. 3, 390 and col. 9, lines 15 and 22.

Referring to claim 9, Sass discloses that the evaluation component is rendered a part of an application user interface (media player; Fig. 3, 300).

Referring to claim 10, Sass discloses the evaluation component is rendered as part of a web page. See col. 8, line 54 – col. 9, line 40, which describe the integration of the evaluation icons and web pages.

Referring to claim 11, Sass discloses that the evaluation component is rendered as part of a browser application. See col. 6, line 50 – col. 7, line 4, which describes how the media player is an interface for Internet content.

Response to Arguments

Applicant's arguments filed 15 September 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that Sass fails to teach command options displayed in association with evaluation icons, the examiner agrees. However, displayed command option messages or icons are commonly found in handheld devices such as PDAs and cellphones, where a limited number of buttons may be used for a wide variety of functions, as is the case in the media device of Sass. Furthermore, Sass teaches associating functions with the evaluation icons, such as switching streams in response to a negative evaluation, or referring the user to a

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product web site for a positive evaluation, at col. 9, lines 19-29. Therefore, the examiner contends that a combination of the well-known command option messages to display the function of the evaluation icons would be a plausible and obvious modification of Sass.

Conclusion


Please note that the examiner of record has changed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Roswell whose telephone number is (571) 272-4055. The examiner can normally be reached on 8:30 - 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (571) 272-4048. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Roswell
12/5/2005



CAO (KEVIN) NGUYEN
PRIMARY EXAMINER